

**REMARKS**

Claims 1-16, 18-20 and 23 were pending in the present application. Claims 17, 21 and 22 were cancelled by preliminary amendment filed January 25, 2002 concurrently with the filing of this application. Claim 9 is cancelled by this amendment. Claims 13-16 were withdrawn from consideration.

Claims 1, 5, 6 and 23 are amended. Accordingly, claims 1-8, 10-12, 18-20 and 23 are currently under consideration.

Claim 1 has been amended by replacing the definitions of  $R^1$ ,  $R^2$  and  $R^3$  with the definitions of  $R^1$ ,  $R^2$  and  $R^3$  as found in the originally filed claims 2 and 3. (Specification page 114, *see also* pp. 5-6). Amendments to claims 5, 6 and 23 relate to deletion of certain objected to options as variables.

No new matter is added and entry of the amendments to the claims is respectfully requested. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

For the convenience of the Examiner, responses to the Examiner's grounds for rejection are addressed below in the order they were raised in the Office Action. Reconsideration is respectfully requested in view of the following remarks.

**A. Cancellation of claims 17, 21 and 22**

Applicants' representatives informed the Examiner that while the Office Action specifically refers to rejections of claims 17, 21 and 22 under various grounds these claims were cancelled by preliminary amendment filed January 25, 2002 concurrently with the filing of this application. Applicants appreciate the Examiner's telephonic response acknowledging the discrepancy and instructing applicants to respond to the Office Action without having to specifically respond to rejections of claims 17, 21 and 22. According to PAIRS, the Examiner prepared an interview summary to that effect, however, Applicants have not received such summary to date.

This response is filed under the assumption that claims 17, 21 and 22 stand cancelled and responses to rejections of these claims are not filed as moot. Applicants respectfully request that this response filed in accordance thereof be considered responsive.

**B. Rejections under 35 U.S.C. § 112, first paragraph**

Claim 23 is rejected under 35 U.S.C. § 112, first paragraph, as allegedly not providing enablement for vascular disorders, peripheral vascular disease, renal failure, disorders of gut motility and stroke. In particular, vascular disorders, peripheral vascular disease, and renal failure which cover multiple conditions and mechanisms are considered to be too broad in scope; disorders of gut motility which cover the speed of movement of food which the claimed compounds cannot regulate; and stroke, which is generally considered untreatable.

In response, Applicants amend claim 23 to delete the disease options of vascular disorders, peripheral vascular disease, renal failure, disorders of gut motility and stroke. The grounds for this rejection is thus moot and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph is respectfully requested.

**C. Rejections under 35 U.S.C. § 112, second paragraph**

Claims 1-9, 11-12, and 17-23, are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. In claim 23, Applicants thank the Examiner for pointing out the typographical error in "potency" which (as the Examiner correctly suggests) should have read "patency."

In response, the term "blood vessel potency" has been replaced by amendment to "blood vessel patency" to correct the typographical error. No new matter is added.

Withdrawal of this ground for rejection is respectfully requested.

2. In claim 23, the term "peripheral vascular disease" has been deleted. The ground for rejection over the lack of clarity of this term is therefore, moot.

3. In claim 1, the term "acyl" in acylamino was considered to be indefinite. Claim 1 is amended to provide a different set of definitions for  $R^1$ ,  $R^2$  and  $R^3$  which no longer includes the term acylamino. The ground for rejection over the indefiniteness of this term is therefore, moot.

4. In claim 5, the ring values of "diazabicyclo[2.2.1]hept-2-yl" and "hexahydro-pyrrolo[1,2-a] pyrazinyl" are objected to.

In response, Applicants delete the value of "hexahydro-pyrrolo[1,2-a] pyrazinyl" from claims 5 and 6. Applicants traverse the Examiner's determination regarding "diazabicyclo[2.2.1]hept-2-yl." This value is covered by claim 1, as amended, when  $n=0$ ,  $R^7$  represents a six-membered ring containing nitrogen and in which the ring is substituted by alkylene (methylene) which is divalent and bridges the nitrogen atom and the 4-position of the ring.

5. Claim 9 has been cancelled. The rejection of claim 9 is moot.

6. & 7. Claims 17, 21 and 22 were previously cancelled. The rejection of these claims is moot.

#### **D. Rejections under 35 U.S.C. § 101**

Claims 17, and 22 are rejected under 35 U.S.C. § 101. Claims 17, 21 and 22 were previously cancelled. The rejection of these claims is moot.

#### **E. Claim Objections**

Claim 10 was rejected for being based on a rejected base claim 1. Applicants appreciate the Examiner's determination that the subject matter of claim 10 is allowable. Further, Applicants believe that claim 1, as amended, is allowable. Withdrawal of this objection is respectfully requested.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 251502007500. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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